UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/SR.9
11 February 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 5 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

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GE.93-10538 (E)

The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1993/3, 6, 9, 12, 13, 70-74 and 81; A/47/76, 262 and 509; S/25149)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1993/17, 18, and 19 and Add.1, E/CN.4/1992/12; A/47/4112)

1. Ms. PEREZ (Brazil) said that, despite the slow progress made since the Madrid talks, her delegation believed that a diplomatic agreement could be reached and urged all parties to pursue the negotiations on the basis of compliance with the relevant United Nations resolutions, especially Security Council resolutions 242 (1967) and 338 (1973), bearing in mind the right of all peoples of the region to live within secure and internationally recognized borders and the right of the Palestinian people to self-determination.

2. Immediate confidence-building initiatives from all parties were vital if results were to be achieved and, in that connection, she welcomed the announcement of changes in the policy of establishing Israeli settlements in the occupied territories, a practice her delegation had always condemned.

3. However, the situation seemed to have deteriorated again and the Commission must, as a matter of urgency, address the question of the human rights and living conditions of the population of the occupied territories. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) was the appropriate legal framework for ensuring respect for basic human rights in the occupied territories and fostering goodwill and confidence between the parties.

4. Her delegation strongly condemned the recent deportation of Palestinians as a serious violation of human rights and urged Israel to comply with Security Council resolution 799 (1992). It was also important that the international humanitarian agencies should be allowed to perform their work normally and in safety in the region and that all those in need of relief should be granted access to them.

5. Her delegation continued to believe that the right to self-determination was one of the cornerstones of justice and peace at the international level and had always lent its support to the United Nations resolutions on the subject. However, the relationship between self-determination and the realization of other human rights was a very complex one. History had shown that self-determination by itself did not necessarily guarantee the enjoyment of civil and political rights or of economic, social and cultural ones. In addition, the question of self-determination was becoming increasingly confused with the problems of minorities and, while it was clear that peoples under colonial or alien domination or foreign occupation had the inalienable right to self-determination, other situations required cautious scrutiny.

6. Her delegation agreed with the point of view expressed by Mr. Eide in his report on possible ways and means of facilitating the peaceful and

constructive solution of problems involving minorities (E/CN.4/Sub.2/1992/37) that the existence of a unilateral right to self-determination was extremely doubtful and was overridden by the basic principle of territorial integrity, provided that the State in question abided by the principle of equal rights and possessed a Government representing the whole people without distinction as to race, creed or colour. It should not be forgotten, moreover, a multi-racial and multi-cultural society was richer in possibilities and creativity and that States which understood that fact were better able to ensure the peaceful coexistence of all segments of their population.

7. Ms. WENSLEY (Australia) said that her delegation believed that the promotion of self-determination was a fundamental activity of the United Nations, with particular reference to the process of decolonization to which the United Nations had made a major contribution and which was almost complete.

8. However, with the recent attainment of or return to independence by many States in Eastern and Central Europe, self-determination was posing new and difficult challenges to both the United Nations and the countries and peoples concerned. Her Government had applauded the courage, determination and commitment to democratic principles shown, in many instances, by those peoples and remained convinced that only by adherence to democratic principles, exercised in an atmosphere of tolerance and restraint, could the hard won gains of recent years be consolidated. The international community had much to do in helping resolve conflicts and ensuring that minority rights, territorial disputes and succession questions were settled peacefully and justly.

9. Her delegation fully supported the Middle East peace process initiated more than one year previously as an historic opportunity to bring a just and lasting peace to the region, and hoped that it would not be jeopardized by current events. She therefore welcomed the fact that Israel had agreed to a process which would eventually lead to compliance with Security Council resolution 799 (1992), while noting that that would not provide an early and complete solution and did not justify the original decision to deport the Palestinians.

10. Although it acknowledged Israel's security concerns, her Government had condemned that decision as a breach of international law and of the provisions of the Fourth Geneva Convention. It called upon Israel to accept the de jure applicability of the Convention to the occupied territories and to refrain from violating its provisions. Her Government had also condemned the kidnapping and killing of an Israeli policeman that had led to the mass expulsions.

11. Her delegation's policy towards the Middle East was based on a total commitment to Israel's right to exist within secure and recognized boundaries, together with a recognition of the right to self-determination of the Palestinian people, including its right to an independent State.

12. For many years it had supported a comprehensive solution based on Security Council resolutions 242 (1967) and 338 (1973), calling for Israel's withdrawal from the territories occupied during the 1967 war and respect for

the sovereignty of all the States in the region and their right to live in peace within secure boundaries. The high level of violence in the occupied territories by both sides was a source of great concern, particularly the large number of Palestinian children killed by the occupying forces in recent months.

13. With regard to the question of Cambodia, her Government had played an active role in developing the framework for the Paris Agreements of October 1991, which provided for an unprecedented and complex role for the United Nations through the establishment of the United Nations Transitional Authority in Cambodia (UNTAC). It warmly welcomed the decision of the Supreme National Council of Cambodia to hold elections on 23 to 25 May 1993 under United Nations supervision.

14. Her delegation highly commended the work undertaken by the Human Rights Component of UNTAC, as described in the statement by the Special Representative of the Secretary-General for Cambodia. Fostering respect for human rights throughout Cambodia before, during and after the elections was central to the objective of creating a neutral environment in which free and fair elections could be held. Guarantees were also needed from the international community that the massive human rights violations that had marred Cambodia's recent past would not be repeated.

15. Under the Paris Agreements, the UNTAC mandate was due to expire within three months of the date of the election of the Constituent Assembly or, in other words, at the end of August 1993. However, her delegation strongly believed that the international community could not simply abandon Cambodians at a time when they were endeavouring to establish a new order promoting and protecting fundamental human rights. The Human Rights Component of UNTAC had been successful in developing awareness among Cambodians of the importance of human rights and the need to develop institutions to protect them, as reflected in the establishment of a number of human rights organizations in the country. Nevertheless, much remained to be done and the immediate post-election period was likely to be a sensitive one, as UNTAC withdrew the bulk of its personnel.

16. Her delegation thus believed that the United Nations should play a continuing human rights role in Cambodia after the departure of UNTAC. To that end, the Commission should appoint a special rapporteur to monitor the human rights situation in accordance with article 17 of the Paris Agreements. That objective could also be achieved, in part, by the establishment of an operational presence of the Centre for Human Rights to help manage the implementation of educational technical assistance and advisory services programmes, assist the new Government in meeting its obligations under the instruments recently acceded to, and provide support for human rights groups in the country.

17. The President of the Supreme National Council of Cambodia had formally endorsed those proposals and she commended to the Commission a draft resolution supporting those objectives. The proposals concerned might indeed be unprecedented but, given Cambodia's tragic recent history, special measures were needed and the United Nations and the international community had a

responsibility to build on the work of UNTAC by assisting in the establishment of institutions to promote and respect human rights, so that the task begun by UNTAC would not be wasted or allowed to fall into decay.

18. Mr. NATH (Mauritius) said that his Government attached great importance to human rights and his country was frequently cited as a role model of ethnic and religious tolerance, as well as of economic development and democratic practice.

19. The fact that so many United Nations reports on the conditions of the Palestinian people had been published indicated the magnitude of the problem but also clouded the basic issue. It was worth recalling therefore that, in November 1947, the United Nations had voted to divide the mandated territory of Palestine into a Jewish and an Arab one. So far, however, only the Jewish State - Israel - had emerged. Israel had been carved out of the mandated territory of Palestine and it followed that what remained after the exercise was the integral territory of Palestine, which Israel could not annex or encroach upon so as to change its demographic composition. His delegation thus believed in the establishment of the Palestinian Government in its rightful home, which was Palestine. Once that was done, confidence-building measures leading to good neighbourly relations were bound to emerge to consolidate the conditions of peace and security in the region.

20. In connection with agenda item 9, it would be recalled that, in 1965, the Organization of African Unity had adopted an important resolution on the need to refrain from redrawing the boundaries inherited from the colonial powers. That was a brave political act which had helped to avert ethnic or tribal conflicts in many former colonial territories in Africa. It was still an important resolution, because it pointed the way to the evolution of the concept of self-determination.

21. His delegation agreed wholeheartedly with the points made by the representative of the United States in his statement to the Commission, namely, that self-determination should not be confused with ethnic isolationism; that a group did not necessarily have a right to self-determination because its members shared ethnic, religious or cultural history; that a multi-ethnic society which preserved the diverse backgrounds of its members encouraged tolerance; that groups which felt that their individual rights were protected and their economic interests fulfilled did not have the same drive to break away; and that the Commission should rededicate itself to forging the bonds of tolerance and respect for rights which brought diverse individuals, groups and nations together.

22. Mr. ALFONSO MARTINEZ (Cuba) said that the importance attached by the United Nations to the principle of self-determination was clear from the provisions of its Charter. Indeed, self-determination was the guiding principle on which all the other principles laid down in article 2 of the Charter were based. Strict respect for those principles was a contractual legal obligation for all Member States, not just the smaller ones, and a basic pillar of international relations.

23. The principle of self-determination was enshrined in resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence

to Colonial Countries and Peoples, which stated that all peoples should "freely determine their political status and freely pursue their economic, social and cultural development". In other words, everything relating to a country's political and institutional system, including its form of government, its electoral, legislative and judicial systems and its model of economic and cultural development, was the exclusive preserve of the people of that country.

24. State sovereignty could obviously not be used as an excuse to install a politico-juridical institution that was contrary to the Principles and Purposes of the United Nations or to contractual legal obligations undertaken bilaterally or multilaterally by the State itself. An example was the racist legislation that had enshrined apartheid in South Africa. Any legislation in a State party to the International Covenant on Civil and Political Rights which did not permit a detainee to have access to a lawyer for his defence constituted another.

25. In 1965, the principle of self-determination had made its logical and necessary entry into the sphere of human rights, thereby remedying a clear inadequacy in the Universal Declaration of Human Rights. While all that was perfectly clear from the legal and political standpoints the key principle of self-determination was currently seriously menaced.

26. Despite the undoubted legal force of the principle of self-determination, some people had begun to talk in Europe about the legitimacy of its antithesis, namely, de jure interference by some States or peoples in the affairs of others. In view of the widespread objection to such foreign intervention, its supporters had adopted a more subtle approach and were trying to justify that reversal of established legal values by citing humanitarian assistance and concern for the protection of human rights.

27. It was essential to stress that "humanitarian" interference was still interference under the Charter of the United Nations. The "new world order", of which "humanitarian" interference was part, boded ill for the countries of the third world. The de facto situation existing in various bodies of the United Nations system, in particular the Security Council, made it easy to proceed to interventionist action, including the use of armed force, without even obtaining prior authorization of the Security Council.

28. In his delegation's view, the Charter did not give a humanitarian mandate to the Security Council. On the contrary, in fact, the Charter excluded the Council from humanitarian questions. To emphasize that point, he read out the functions and powers of the Council, as set forth in Article 24, paragraphs 1 and 2, of the Charter. It was a well-known fact that all matters relating to international economic and social cooperation, through which the Organization was to promote respect for and observance of human rights and fundamental freedoms for all, were governed by the provisions of Chapter IX of the Charter, which was not included in the list of Chapters given in Article 24, paragraph 2. The reason why that matter had been excluded from the sphere of action of the Council was quite clear: to avoid a conflict of jurisdiction between the principal organs of the United Nations.

29. The practical danger of the current situation was that serious efforts were being made to present a given political system as one that was necessary at the world level. That system was associated with the so-called "market economy" of which his country had no pleasant memory. The Cuban people had learned by experience that the so-called "democracy" was not a democracy of the people, for the people and by the people, but something quite different. They had rejected that "market democracy" and adopted their own model.

30. In that same order of ideas, the Commission was informed that, in many bilateral assistance agreements, certain developed countries regularly included provisions whereby the observance of human rights in the recipient country - from the standpoint of the donor - was an indispensable requirement for obtaining such assistance. Furthermore, efforts were made to establish United Nations bodies to supervise elections, a situation which could lead the general public in the future to assume that elections not internationally supervised by such bodies were not legitimate.

31. A variety of actions had been taken to restrict or nullify the exercise of the right to self-determination, including the armed occupation of the territory of other States. Indeed, part of his country's territory had been occupied for 90 years by a foreign naval base, in defiance of the sovereign wishes of the people. Another method was unilateral economic sanctions and Cuba had suffered for more than 30 years from the rigid commercial, financial and economic embargo imposed by the United States. The United States Congress had recently passed legislation to tighten the blockade still further, the provisions of which were clearly interventionist in character since their declared aim was to force Cuba back into the fold of the market-democracy system it had rejected. That Act constituted interference not only in the internal affairs of Cuba but also in those of countries maintaining traditional commercial and financial relations with his own.

32. In November 1992, the General Assembly had firmly rejected such attempts to impose the legislation of one country extraterritorially upon others, since that was in contradiction with the principles of the freedom of trade and navigation and clearly affected the exercise of the basic human rights of the Cuban people, particularly its right to development.

33. His delegation reiterated its firm support for the right of peoples to self-determination wherever they were deprived of that right. He reiterated Cuba's support for the work of the United Nations Mission for the Referendum in Western Sahara (MINURSO) provided for in Security Council resolution 690 (1991). He hoped that the Secretary-General would intensify his negotiating efforts so that the parties to the conflict could resolve through a reasonable, just and equitable compromise the difficulties that had so far impeded the implementation of the agreement.

34. Mr. ZHAN Daode (China), recalling that the Declaration on the Granting of Independence to Colonial Countries and Peoples had reaffirmed the principle of the right of peoples to self-determination, said that respect for that right meant, above all, that efforts should be made to safeguard the independence, sovereignty and territorial integrity of all States and to enable their peoples to determine their future and oppose any foreign aggression, intervention and control.

35. As stated in the Declaration on the Granting of Independence to Colonial Countries and Peoples, any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country was incompatible with the Purposes and Principles of the United Nations as set forth in the Charter. Any act that might lead to ethnic contradictions and conflicts thus ran counter to the principles embodied in the Charter and should be opposed by the international community.

36. It should be noted, in that connection, that the resolutions adopted by the General Assembly at its last session had injected new vitality into the work of safeguarding the right of peoples to self-determination.

37. While the Middle East peace process had brought new hope for a peaceful resolution of the region's problems, it had yet to achieve a substantial breakthrough. The right of Palestinian people to self-determination had not been realized and Israel still occupied the territories of the Arab countries.

38. Moreover, the recent deportation of a large number of Palestinians by Israel had once again created tension in the region. Israel had not yet completely changed its decision on the deportation and his delegation therefore called on the Israeli Government fully to implement Security Council resolution 799 (1993) and to take prompt steps to allow the deported Palestinians to return to their homeland.

39. Since the signing of the Paris Agreements and as a result of the efforts made by the Supreme National Council (SNC) and the United Nations Transitional Authority in Cambodia (UNTAC), and of the support given by the international community, the peace process for the solution of the Cambodian problem had made some progress. His delegation took the view that the Paris Agreements should be implemented comprehensively and fairly and that the problems which had arisen during their implementation should be resolved through consultations between the SNC and UNTAC. It hoped that all the relevant Cambodian parties would fulfil their obligations under the Agreements so that Cambodia could become a genuinely independent, peaceful and non-aligned country at an early date.

40. Mr. da SILVA (Portugal) said that no one contested the fact that the right to self-determination was a permanent right that was exercised by each people through periodic elections and free participation in democratic life. The International Covenants on Human Rights both stated that all peoples had the right freely to determine their political status and their own future. It was self-evident that dictatorships and totalitarian regimes could not guarantee respect for that right. Moreover, without respect for the right to self-determination, it was difficult, and even impossible, to guarantee the enjoyment of other human rights.

41. It was also clear that the right to self-determination was violated in particular in colonial situations and situations of foreign occupation. It was therefore quite natural that, in such situations, the international community should require respect for the right to self-determination. East Timor was increasingly becoming a case in point and an example of the way that non-respect for the right to self-determination led to massive and systematic violations of all human rights.

42. In 1974, Portugal had accepted the Declaration on the Granting of Independence to Colonial Countries and Peoples. It had then undertaken the process of decolonization, which had resulted in the accession to independence of several territories. The same process had been undertaken in the case of East Timor. Indonesia had then explicitly recognized that the people of Timor enjoyed the right to self-determination and stated that it had no territorial claims there.

43. On 7 December 1975, however, Indonesia had invaded the territory and annexed it by force. It had subsequently organized a so-called "popular assembly" - non-elected, which had requested the integration of East Timor into Indonesia. Indonesia took the view, therefore, that the people of Timor had exercised their right to self-determination. However, neither Portugal nor the United Nations accepted that act as representing the will of the people of Timor.

44. To avoid any misunderstanding, he wished to stress that it was not the result of the decision that was contested but the fact that the decision taken had not met the requirements laid down in principle IX of resolution 1541 (XV), namely, that the peoples concerned should determine their political status freely without any pressure or foreign interference. That principle had not been respected in the case of East Timor, as confirmed by the General Assembly in its resolution 31/53.

45. For many years, his delegation had been drawing the international community's attention to the intolerable situation of human rights violations in East Timor. The Indonesian Government had always denied the allegations, claiming that they were exaggerated.

46. However, the massacre that had taken place at Dili in November 1991 had obliged the Indonesian authorities to change their attitude. The massacre had been filmed by foreign witnesses and, in view of the unexpected international condemnation, the Indonesian Government had, on the one hand, expressed regret and promised that there would be an inquiry but, on the other, had increased its repressive measures and taken steps to conceal the situation in the territory.

47. Recalling that, in March 1992, the Chairman of the Commission on Human Rights had read out a declaration expressing the consensus view of the Commission on the human rights situation in East Timor, he said that Indonesia, which had voluntarily endorsed the declaration, was thereby politically, morally and legally bound to adopt a number of measures. A brief analysis of the action subsequently taken by the Jakarta authorities revealed, however, that Indonesia had no intention of implementing the measures to which it had pledged itself.

48. The human rights situation had not improved in the past year. The United States' State Department had reported the occurrence of extrajudicial killings and unfair trials, torture and mistreatment of criminal suspects, detainees and prisoners, and the violation of legal protection by the Government.

49. Furthermore, the Indonesian authorities had once again imposed restrictions on the activities of the International Committee of the Red Cross (ICRC). Thus, following the arrest at Dili in November 1992, of Mr. Xanana de Gusmao, the resistance leader, the ICRC had only been permitted to visit him two weeks after his arrest. His trial, which was currently taking place, was no more than a farce. Indonesia, which was in illegal occupation of the territory, had no moral, political or legal authority to try those whose "crime" it was to oppose that occupation.

50. The Indonesian Government had accepted, in the Commission, the need to prosecute and punish all members of the armed forces responsible for the massacre. It had also undertaken to treat all the civilians arrested on that occasion with humanity, ensure that those brought before the court would have an appropriate legal defence and a fair trial and that those who were not involved in violent activities would be immediately released. None of those commitments had been implemented.

51. In January 1993, his Government had submitted a proposal to establish without delay and without prior conditions, under the auspices of the Secretary-General of the United Nations, a dialogue on the substantive problems. It had also indicated its readiness to participate in a dialogue with all the parties directly concerned with a view to achieving just, overall and internationally acceptable settlement of the question. Unfortunately, that dialogue had not yet produced any genuine progress. His delegation sincerely hoped that Indonesia would recognize that a durable solution could not be based on a refusal to grant peoples their freedom.

52. Mr. MAHMOUD (Observer for the United Arab Emirates) said that all the reports of the Special Committee to Investigate Israeli Practices in the Occupied Territories since 1968 reflected a deterioration in the human rights situation in those territories. The Israeli authorities had stepped up the whole range of repressive practices, including murder, imprisonment, establishment of settlements, collective punishment and the use of torture in prisons and detention centres. In December 1992, they had expelled more than 400 Palestinian citizens from their homeland.

53. The systematic refusal by the Government of Israel to respect the principles of international law and its rejection of relevant resolutions of the Security Council and General Assembly made it necessary for the international community to take the requisite steps to make Israel respect its international obligations. Israel's latest offer to return a number of the Palestinians it had expelled was incompatible with the relevant Security Council resolution.

54. With regard to the other occupied territories, attention should also be drawn to the Syrian Golan Heights where Israel continued to refuse to implement the relevant Security Council resolutions. It also refused to withdraw from southern Lebanon, where the population was subjected to daily harassment.

55. The Middle East process, which had begun at the Madrid Conference, was in the doldrums owing to Israel's obstinate refusal to apply the principle of the exchange of land for peace.

56. To conclude, he wished to draw attention to a declaration by the Gulf Cooperation Council which called on the Security Council to exert pressure on the Israeli Government to revoke the deportation of the Palestinians. In the changed circumstances following the end of the cold war, it was essential that the Security Council should not appear to be adhering to double standards in its application of censure and sanctions.

57. Mr. SENE (Senegal) said that, at the Commission's previous session, there had been a general awareness that the process initiated at Madrid with the aim of achieving a peaceful settlement to the Middle East conflict would be fraught with difficulty, and that conviction had been borne out by the recent deportation by the Israeli Government of 415 Palestinians from their own country. That act had revealed once again the strength of the rancours and prejudices dividing the parties to the conflict.

58. It was noteworthy that Israel had denied the International Committee of the Red Cross (ICRC) access to the deportees, in flagrant violation of international humanitarian law and, in particular, of the Geneva Conventions to which Israel was itself a Party. The deportations had been condemned by the international community in general, as had Israel's refusal to permit emergency relief to the deportees. As the occupying Power, primary responsibility for the deportees lay with the Israeli Government, and its refusal to comply with its obligations constituted an infringement of the principles of international humanitarian law.

59. Over the years, there had been numerous reports by the United Nations, Governments and non-governmental organizations of cases of violations of human rights and of ill-treatment in the occupied Arab territories, and the time had come for the Commission to play its part in ending that spiral of violence and aggression. Israel must agree to the immediate repatriation of the 415 deported Palestinians, as required by Security Council resolution 799 (1992). It must likewise put an end to all practices involving arbitrary detention, torture and executions. The international community must continue to press for the continuation of negotiations to achieve a lasting peace on the basis of the right of all the parties to live in security in their own lands and on the principles of international law.

60. Mr. ABU-OSHBA (Observer for Saudi Arabia) said that the situation of the inhabitants of the occupied Arab territories had, if anything, deteriorated since the Commission's previous session, as could be seen from the Secretary-General's note (E/CN.4/1993/13), which contained a long list of recent reports dealing with the conditions in which the citizens of the Palestinian and other occupied Arab territories were living under the Israeli occupation.

61. The reports gave evidence of the continuing intransigence of the Israeli authorities with regard to the resolutions of the General Assembly and the Security Council and, in particular, Security Council resolution 799 (1992), which called for the repatriation of the 415 Palestinians deported in December 1992 from the occupied Arab territories.

62. In that connection, his delegation called on the international community to bring further pressure to bear on the Israeli authorities to comply with

their obligations under international law, and expressed its support for the position taken by the Government of Lebanon in refusing to admit the deportees to its territory.

63. Mr. BENHIMA (Observer for Morocco) said that, at a time when the Security Council and other United Nations bodies were playing a more active role in trying to maintain peace and security throughout the world, it was more than ever important that the United Nations should address itself to the Middle East, where a situation of crisis had prevailed for more than 40 years. Dozens of resolutions of the General Assembly, the Security Council and other international organs had called for recognition of the rights of the Palestinian people to self-determination under the auspices of the Palestine Liberation Organization, its sole and legitimate representative, and for the establishment of an independent Palestinian state with Al-Quds (Jerusalem) as its capital.

64. The peace process had been hampered by Israel's intransigence, and it was regrettable that the recent expulsion of more than 400 Palestinians by the Israeli authorities had halted the dialogue initiated between Arabs and Israelis, a dialogue which had given considerable grounds for hope and without which there could be no peace.

65. His Government had at the time, welcomed the developments in Angola which had led to a settlement process under United Nations auspices on the basis of an agreement between the parties to the conflict and had applauded the holding of free elections in the country, believing that Angola was at last emerging from its civil war. The recrudescence of violence and tension in the country was thus deeply troubling. None the less, there was still reason to hope that the Angolan leaders would have the wisdom to overcome their differences in the interests of achieving national reconciliation and their country's reconstruction.

66. The recent signature of a general peace agreement between the Government of Mozambique and RENAMO was also to be welcomed, in that it brought to an end 16 years of civil war and would, it was to be hoped, create favourable conditions for holding free elections, thus opening up a new era for the people of Mozambique.

67. His delegation was also deeply concerned at the difficulties which the United Nations Transitional Authority in Cambodia (UNTAC) was encountering in implementing the 1991 Paris Agreements on an overall political settlement of the Cambodian conflict. The upsurge in hostilities was confining the United Nations representatives to the role of mere spectators, powerless to control the crisis. It was deplorable that, despite the mobilization of more than 20,000 United Nations soldiers, the situation continued to worsen.

68. For its part, Morocco was actively participating in peace-keeping operations in Angola, Somalia and Cambodia, thus once again demonstrating its determination to fulfil its international duty and its confidence in the essential role of the United Nations in the international community's endeavours to maintain world peace and security.

69. With regard to Afghanistan, his Government was deeply concerned at the resurgence of violence in that country and the resulting large-scale loss of human life and destruction of property. It hoped that the parties concerned would succeed in creating the necessary conditions for achieving a peace based on dialogue, so as to bring about national reconciliation.

70. His Government attached high priority to respect for the principle of the right of peoples to self-determination, and had taken resolute action to promote the implementation of that right for all peoples, and in particular for the Palestinian people and Morocco's fellow-Africans.

71. As for the so-called question of Western Sahara, his Government had consistently encouraged the Secretary-General's efforts to implement the peace plan. Morocco had accepted the substance of the Secretary-General's report on the situation concerning Western Sahara (S/23299), as endorsed by Security Council resolution 725 (1991), even though that report did not take account of some of its legitimate requirements. It had accordingly responded favourably to the recent invitation by the Secretary-General's Special Representative for Western Sahara for a consultative meeting with tribal chiefs and notables in order to clarify the criteria for identifying persons entitled to participate in the referendum. The failure of that consultation could in no way be attributed to his Government, which would continue to support the efforts of the Secretary-General and his Special Representative to organize the referendum as soon as possible.

72. Mr. SEMICHI (Observer for Algeria) said that the right of peoples to self-determination and the implementation of that right for people subjected to colonial or foreign occupation, had been a major preoccupation of the United Nations since the early 1960s, and the Organization's successes in that regard were, perhaps its greatest historical contribution to freedom and social progress.

73. The Palestinians constituted the most conspicuous case of a people denied its right to self-determination, and the international community had unceasingly upheld its cause in the face of Zionist imperialism and arbitrary rule, whose ultimate aim was to annihilate the Palestinian people either through genocide or systematic expulsion from its homeland.

74. In South Africa, however, there seemed to be a slow trend towards greater freedom, democracy and co-existence, even though some futile violence persisted. The democratic alternative would enable the black majority to achieve greater control of its destiny, to exercise its full sovereignty and to benefit from control over its natural wealth.

75. Another people deprived of its right to self-determination in Africa was the people of Western Sahara. That issue had been before the General Assembly for more than 20 years, and the Commission had expressed its support for the Secretary-General's 1991 settlement plan, which had been accepted by both parties to the dispute.

76. For its part, Algeria was prepared to enter into dialogue and to cooperate with all parties on the basis of national sovereignty to find a just, equitable and lasting solution to the problem. The consensus on

the question of Western Sahara, evident at the last session of the General Assembly, demonstrated the international community's concern to see the referendum process come to fruition in the near future.

77. Mr. HENRIET (International League for the Rights and Liberation of Peoples) said that his organization fully endorsed the views expressed by earlier speakers regarding the forcible expulsion of 415 Palestinians from the occupied Arab territories in December 1992.

78. As for the legal background to the case, he said that the Israeli High Court enjoyed wide powers, including the authority to annul legislation and to overturn decisions of the Executive. It was called upon to act as the guarantor of the individual's rights vis-à-vis the State, and it might be expected to defend any person under the jurisdiction of the State of Israel who had a complaint regarding an infringement of his rights by that State. From that standpoint, the unanimous decision of the seven presiding judges of the Supreme Court on 28 January 1993, which declared the Government's collective expulsion orders illegal but upheld the validity of the individual expulsion orders against 415 Palestinians, was a masterpiece of legal casuistry.

79. Admittedly, the Supreme Court had also stated that each of the deportees had a right of recourse to the military appeal courts and had ordered the Israeli authorities to make that recourse available to the deportees by enabling them to meet their lawyers. It seemed unlikely, however, that persons who had been arrested, imprisoned and expelled by the military authorities would recognize the legality of military courts and agree to appear before them. Since they had been deported as a group, they should be repatriated as a group.

80. It was clear from the High Court's decision that, although Israeli judicial authority was based on the principles of habeas corpus and the presumption of innocence, that did not apply to the Palestinians of the occupied territories. Israeli justice clearly operated on two levels, depending on whether the persons concerned were citizens of the Jewish State or Arab residents of the occupied territories. The Supreme Court's decision also supported the Government's refusal to comply with Security Council resolution 799 (1992) and thus purported to give Israeli law precedence over international law.

81. Expulsions had formed part of Israeli policy since 1948. The 415 persons expelled in December 1992 brought the overall total to more than 1,600 since the occupation of Gaza and the West Bank, but that figure was only the tip of an enormous iceberg, the 3.5 million Palestinians living in exile.

82. Driven from their lands and from their homeland, those men, women and children had had the right to return since 11 December 1948 or, for those who had decided not to return, the right to compensation for their plundered property. That right, however, had repeatedly been rejected by all Israeli Governments. There would be no settlement of the Israeli-Palestinian conflict until Israel recognized the right of all Palestinians to return home.

83. By ruling out, as a condition for its taking part in the peace talks, the participation of the exiled Palestinians, i.e. the vast majority, Israel had succeeded in transforming the conflict into a simple question of the occupied territories. Thus, the issues of the right to return and of the future of the millions of Palestinians living in exile had been evaded.

84. The Palestinians had posed no preconditions for their participation in the peace negotiations, but the Palestine Liberation Organization (PLO) remained firm on the principle of the right to return of those exiled, while demonstrating flexibility with regard to its application.

85. By appropriating 60 per cent of the land, refusing autonomy, imposing "law and order" on the villages and towns, and denying the Palestinians in the occupied territories any opportunity to exploit water resources or to build up an autonomous economy, Israel showed that its long-term goal continued to be to integrate the West Bank and Gaza into the Hebrew State and to transform the occupied territories into Palestinian Bantustans, in which the people, in order to survive, had no other choice but to sell their labour in Israel or emigrate.

86. If the United Nations did not take firm action in response to the expulsion of the 415, the hopes for achieving peace would be frustrated and extremists in all camps encouraged. It was high time that the international community compelled the Israeli Government to cease manipulating international law.

87. Mr. VOLKEN (The World Christian Life Community) drew the Commission's attention to the legal obstacles faced by the Palestinians living under Israeli military rule as they sought to develop their economy: restrictions on freedom of movement of persons, on land use, on financial transactions and on the free flow of capital, a punitive taxation system, confiscation of land, reduction of access to water, limited access to external markets and a system of permits for industry and agriculture.

88. Since 5 June 1967, the military commanders for the West Bank and Gaza had legislative control over the lives of nearly 2 million Palestinians. Every change in the law reflected the interests of Israel, without any concern for the needs of the local population. Israel had not acknowledged the applicability of the Fourth Geneva Convention in the occupied Palestinian territories. The military commander was not accountable to the Israeli legislature or the Israeli High Court. Decisions were carried out selectively to demolish Palestinian homes, expel Palestinians, confiscate Palestinian land and enforce curfews.

89. The fact that Israeli merchants had virtually unlimited access to markets in the occupied Palestinian territories while Palestinian access to Israeli markets was highly restricted showed the nature of the issue. The scarcity of employment opportunities reflected Israel's goal of undermining the existing infrastructure of the Palestinian economy. That policy included a prohibition on the licensing of Palestinian industrial enterprises and, until recently, encouragement of Palestinian employment in low-paying positions in Israel.

90. The lack of significant Palestinian manufacturing further deepened the dependency relationship between the occupied Palestinian territories and Israel, because Palestinian consumers were forced to buy in Israel. Restrictions on the Palestinian financial sector precluded the offering of full banking services, thus inhibiting the growth of existing industries and undermining the development of new ones. Finally, Israeli control over the flow of persons, products and capital meant that the economy was completely dependent on Israeli institutions or individuals for conducting transactions with the outside world.

91. The instruments of economic development regulation currently in the hands of Israel, including matters of planning, taxation, economic regulation, finance, trade, water and land, must be shifted to Palestinian control. Public works must be undertaken to achieve national reconstruction and create jobs. Financial institutions must be restructured to fuel economic growth and give access to foreign markets. The current taxation policies, which were arbitrary in application and offered no representation, must be replaced.

92. Cancelling the security orders and the Emergency Regulations of 1945 and shifting control of legislative power to the Palestinians were prerequisites for meaningful development. The World Christian Life Community thus requested the Commission to appoint a special rapporteur to investigate the legal obstacles to economic development in the occupied Palestinian territories.

93. Ms. LACOURT (International Federation - Terre des Hommes) said that the inhabitants of Western Sahara were still unable to exercise their right to self-determination. The Moroccan authorities had done everything in their power to prevent the holding of a referendum on the self-determination of the Saharan people, initially planned for January 1992 and continued to procrastinate on the question of the make-up of the electoral body. They had not cooperated with the forces of the United Nations Mission for the Referendum in Western Sahara (MINURSO). In May 1992, a report of the Secretary-General had listed 102 violations of the cease-fire, 97 of which had been attributed to Morocco and five to the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO).

94. Clearly, the United Nations presence had not made Morocco loosen its grip on the territory or guarantee the freedom of expression of the Saharan people. A generalized resumption of fighting was to be feared. In the autumn of 1992, violent demonstrations had taken place in Assa, Smara and El Aaiun, during which demonstrators had demanded an improvement in their living conditions, progress in the deadlocked peace process and realization of the right to self-determination. The Moroccan army had intervened, and there had been reports of dozens of deaths, many injuries and hundreds of arrests. A number of demonstrators had requested asylum on the MINURSO premises but had been turned away or taken to a destination of their choice.

95. The Frente POLISARIO had published a list of persons arrested who were said to have been severely tortured. In all more than 700 persons had apparently been arrested since September 1992, and in that context, she drew attention to the terrible suffering of the Saharan children.

96. The Commission must urge all the States concerned to take the necessary steps to relaunch the peace process in Western Sahara and to ensure freedom of expression, information and circulation for the persons in the country; it must also call for an international commission to investigate the recent events in Assa, Smara and El-Aaioun. In the circumstances, it would be quite inappropriate for Morocco to have a position of responsibility at the forthcoming World Conference on Human Rights in Vienna.

97. Mr. CHANDRA (India), speaking in exercise of the right of reply, said that Jammu and Kashmir was an integral part of India; the validity of its accession to India being incontestable. Pakistan, the aggressor, continued its unlawful occupation of part of the territory. Non-implementation of the resolutions of the United Nations Commission on India and Pakistan (UNCIP) could not be blamed on India, Pakistan having refused to stop its aggression, a precondition for the plebiscite.

98. The difficulties in connection with the full enjoyment of human rights in Jammu and Kashmir had arisen because Pakistan had aided and abetted terrorist and secessionist activity in the area. Terrorists had been murdering, abducting and torturing innocent people, including women and children. The allegations concerning the conduct of Indian security forces, which had been making strenuous efforts to protect the lives of innocent people in the face of such terrorist activities, were unfounded. The Government was exercising maximum restraint, and wherever excesses were found to have been committed, disciplinary action was immediately taken and compensation paid.

99. Concerning the call for a fact-finding mission, his delegation pointed out that the territory was open and that tourists, journalists and diplomats could and did visit it. The facts were clear, and there was no need for a fact-finding mission. It was time that the international community recognized that Pakistan was using terrorism as an instrument of State policy.

100. Mr. DOS REIS (Indonesia), speaking in exercise of the right of reply, said that his Government had consistently supported Portugal in its efforts to decolonize East Timor. However, what had been described by the representative of Portugal as a process of "decolonization" was a record of failure and ineptitude. In August 1975, the colonial authorities had simply packed up and left East Timor, after allowing the situation in the territory to deteriorate to the point of civil war. In fact, Portugal had been guilty of instigating the civil war by secretly turning over its arms and ammunition to one particular minority group. Having bungled the decolonization process, Portugal had forfeited any right to be regarded as the "administering Power" of East Timor.

101. The people of East Timor had freely exercised its legitimate right to self-determination in full accordance with the relevant General Assembly resolutions. The outcome had been a clear desire to integrate East Timor with Indonesia, bringing an end to a long history of colonialism. Since their independence through integration, the people of the province of East Timor had become masters of their own destiny.

102. Political opinion was overwhelmingly in favour of participation in Indonesian political life. Portugal's claim to be the administering Power of

East Timor constituted a denial of the rights of the overwhelming majority of the people of East Timor, who had chosen integration with Indonesia. As a native of East Timor who was a career member of the Indonesian Foreign Service, he was a living witness to the process whereby his people had assumed its inherent right to decolonize itself by choosing independence through integration with Indonesia.

103. Mr. BENHIMA (Observer for Morocco), speaking in exercise of the right of reply, said that the representative of Centre Europe - Tiers Monde (CETIM) had spoken of events that had never taken place, such as the so-called bombardment of Saharan towns, and had denounced Morocco's supposed resistance to the implementation of the peace plan.

104. Concerning the census, for many years the Frente POLISARIO, of which CETIM was the mouthpiece, had maintained that there were between 700,000 and 1 million Saharans, before suddenly accepting the results of the Spanish census of 1974, which had counted 74,000 persons. CETIM had not explained that remarkable volte-face. He wondered how it was possible to exclude the majority of the population from a referendum that concerned all Saharans and to rely instead on a census that had omitted entire tribes, in particular those that had fled from the repression of 1958.

105. As for the events that had purportedly taken place in certain Saharan towns, in autumn 1992, the allegations spread by the Frente POLISARIO had been refuted by the commander-in-chief of MINURSO and by the Secretary-General's special representative, who had declared on 28 October 1992 that those allegations had not been corroborated by MINURSO's reports.

106. As for the failure of the informal consultations held in Geneva by the special representative of the Secretary-General in November 1992, the Secretary-General, in his letter of invitation, had given the parties complete freedom to choose their representatives. Morocco's adversaries had, however, attempted to deny Morocco the right to appoint Mr. Ibrahim Hakim, former Minister for Foreign Affairs of the Frente POLISARIO.

107. The Frente POLISARIO had also rejected the presence in the Moroccan delegation of a tribal leader who had headed the same delegation at a meeting in June 1990. The so-called President of the Frente POLISARIO, had indeed declared prior to the meeting that he expected nothing of the Geneva consultations.

108. Turning to the statement by France - Libertés, he said that his Government had never accepted the census of 1974 as the sole basis for establishing lists for the referendum. Finally, his delegation was surprised that that organization and the International Federation - Terre des Hommes had referred only to Security Council resolution 690 (1991), while disregarding Security Council resolution 725 (1991).

109. Mr. HUSSEIN (Pakistan), speaking in exercise of the right of reply, said that the representative of India had responded to the statement by the observer for the Organization of the Islamic Conference, in which that observer had read out the resolution on Kashmir adopted by the Sixth Islamic

Summit Conference at Dakar in December 1991. That document reflected the views of all the 50 or more members of the Organization; in other words, the representatives of 1 billion Muslims throughout the world.

110. Like all occupying powers, India had chosen to defame the liberation movement of the Kashmiris as terrorism. The French and the Soviets had used the same terms to describe the Algerian and the Afghan Mujahidin resistance movements.

111. India's allegation of Pakistani interference in the Indian province of Punjab was a gross travesty of the facts. The representative of India might like to read the book "Amritsar" by the prominent BBC correspondent in India, Mark Tully, which documented the brutal Indian military action against the Sikhs as well as the destruction of Sikhdom's holiest shrine, the Golden Temple, in June 1984. The eminent Indian journalist, Khushwant Singh, had corroborated Mr. Tully's findings.

112. Finally, it was not true, as the representative of India had maintained, that all were free to visit Kashmir: only recently, a delegation of Amnesty International had been denied entry.

The meeting rose at 6.10 p.m.